Supreme Court, U.S.
FILED
JAN 28 2000
CLERK

No. 99-1092

In The

Supreme Court of the United States

LYNNE S. TAYLOR and KEISHA JOHNSON,

Petitioners,

v.

VIRGINIA UNION UNIVERSITY,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the decision of the Fourth Circuit, holding that based on the evidence presented, Taylor did not meet her burden in establishing a *prima facie* case, or carry her burden of persuasion that she was not promoted or sent to the Police Academy because of sex discrimination, presents an important federal question in a way that conflicts with relevant decisions of this Court and other circuits.

2. Whether the Fourth Circuit's decision that Taylor failed to establish a *prima facie* case in support of her claim that she was discharged because of sex discrimination presents an important federal question in a way that conflicts with relevant decisions of this Court and other circuits.

3. Whether the decision of the Fourth Circuit that if the evidence excluded by the district court had been admitted, it was too weak to have made a difference to the jury verdict, which found Johnson was not discriminated because of her sex, presents an important federal question in a way that conflicts with relevant decisions of this Court and other circuits.

4. Whether the Fourth Circuit erred in finding that Johnson did not exhaust her administrative remedies in relation to her sexual harassment claim.

5. Whether the evidentiary decisions of the Fourth Circuit in this case have so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power.

PARTIES TO THE PROCEEDING

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JURISDICTION

Petitioners have not set forth an adequate basis to justify the exercise of this Court's discretionary jurisdiction. They have not shown and cannot establish that the decision of the Fourth Circuit in this cause created a split of authority among the federal courts or that the opinion below decided an important question of federal law that has not been, but should be, settled by this Court.

STATEMENT OF THE CASE

This petition seeks this Court's review of the Fourth Circuit's opinion sitting *en banc*, affirming the judgments entered in the district court in favor of Virginia Union University ("VUU") in all aspects and affirming the dismissal of Johnson's sexual harassment claim.

Petitioners allege that the fundamental question presented is "whether the blight of gender based discrimination will continue in the Fourth Circuit." This is a false and libelous characterization of the law of the Fourth Circuit and the decision of the *en banc* majority in this cause. Rather, the question presented in petitioner Taylor's case is whether a party who failed to meet the burden of establishing a *prima facie* case, as outlined in *McDonnell-Douglas v. Green*, 411 U.S. 792, 802 (1973), is entitled to the mixed motive burden shifting proof scheme established in *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).

In Johnson's case, a jury considered the evidence and found she was not discriminated against by VUU because

of her sex. Johnson alleges that exclusion of a lewd and obscene remark made by the VUU Chief of Police was reversible error. The question presented to this Court is whether, if the evidence excluded by the trial court, had been thrown in the mix of evidence that was already before the jury, was it too weak to have made a difference, assuming *arguendo* it was admissable; and whether Johnson sustained her burden of showing she was constructively discharged. Additional issues raised in Johnson's case are whether her EEOC complaint sufficiently alleged a claim of sexual harassment, and whether the district court's answer to a questions by the jury constituted reversible error.

As detailed below, there is no cause for this Court's review of the petitioners' fact bound contentions which have been rejected by a jury, the district court and the Fourth Circuit sitting *en banc*.

A. Lynne S. Taylor

1. ***Promotion***

In August 1992, VUU employed Taylor as a patrol officer, based on the recommendation of Eugene Wells, Chief of Police ("Wells"). Taylor subsequently unsuccessfully sought to be promoted to the rank of Corporal. The uncontraverted evidence established at trial was that although she acted as acting shift supervisor on occasion, she was not qualified for promotion to Corporal for the reason that she received a less than satisfactory performance evaluation. In order to be promoted to Corporal, she was required by VUU promotion policies to have

been rated as satisfactory in all areas on her job evaluation. There was no evidence that VUU ever waived this requirement.

2. *Police Academy*

One of the issues presented in the petition stems from the fact that Taylor was not selected to attend the Police Academy. Taylor asserts she was not sent to the Police Academy because of her gender.[1] However, there were only two openings per year, and all the males who attended the Police Academy were more qualified than Taylor. Taylor admitted on cross-examination that there were men with more seniority waiting for an opening and that Wells had told her he would send her to the Police

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[1] There was testimony by a former patrolman that Wells had expressed to him in a discussion regarding Johnson that he would not send a woman to the Police Academy. The jury heard this testimony in Johnson's case, but nevertheless found in favor of VUU. The jury obviously did not believe this testimony which was given by a former VUU employee and was inconsistent with the fact that Wells had recommended both Taylor and Johnson; had told Johnson he did not know why she should not be the next Lieutenant; told Taylor he would send her to the Police Academy; and was warmly praised by Johnson in her letter of resignation. This record, taken as a whole, does not show any animus towards women. The Fourth Circuit held that in order for Taylor to qualify for the mixed-motive application for standard of liability she was required to show "evidence of conduct or statements that both reflect directly the alleged discriminatory attitude and that bear directly on the contested employment decision." *Taylor*, at 232 quoting *Fuller v. Phipps*, 67 F.3d 1137, 1142 (4th Cir. 1995). This is especially true in this case where Wells told Taylor he would send her to the Police Academy. See appendix.

Academy. Thus there was no basis for her claim of sexual discrimination regarding the Police Academy issue.

3. *Discharge*

Shortly after Taylor was denied a promotion, Lieutenant Yancey ("Yancey"), Taylor's supervisor, responded to a complaint that females were attending a party in a fraternity room at VUU in violation of VUU policy. Yancey investigated the complaint and found Taylor in attendance at the party with students. Yancey testified that he had observed Taylor's demeanor at the time and could tell she was under the influence of alcohol. She had attended the party for more than an hour in direct violation of VUU rules. At the time of the incident, Yancey immediately relieved Taylor of her duties. After an investigation by the department, Taylor was discharged. Although she denied she had been drinking alcohol, Taylor admitted the reason she was terminated was because she was accused of "fraternizing and consuming alcoholic beverages."

B. Keisha Johnson

1. *Promotion*

In July 1993, Johnson was employed as a patrol officer upon Wells' recommendation. Like Taylor, Johnson also served as acting shift supervisor on occasion. On cross-examination Johnson admitted that there were male officers who served as acting shift supervisors who were not promoted to Corporal. Johnson was rated as satisfactory or above in her performance evaluation. In May

1994, Johnson sent a letter to Wells expressing her desire to apply for a promotion to the rank of Lieutenant. Johnson testified at trial that, Wells then told her, "I don't know why you can't be the next lieutenant around here." To achieve that end, Johnson took both the requisite written and oral examinations. On the written examination, Johnson scored in fifth place behind four men. The four persons who received the sergeant and lieutenant positions all scored higher than Johnson. The oral examination was conducted by a panel consisting of the VUU police department and a police officer from the City of Richmond's police department. After the examination process was complete, VUU compiled the panel's results in a final ranking. Quinton Terry, who was a patrol officer at the time, and had scored higher than Johnson, was promoted to the position of lieutenant, which Johnson had applied for.

2. *Police Academy*

Johnson was also not selected to attend the Police Academy during her brief fourteen month tenure at VUU. In support of her allegation, that her failure to be selected to attend the Police Academy was a result of Wells' discriminatory animus toward women, like Taylor, Johnson relies upon an exchange between Wells and a former police officer during which Wells was alleged to have stated that "he was never going to send a female to the Academy." Uncontradicted evidence presented at trial established that a number of the male officers at VUU had waited for years before being selected to attend the Police Academy and many with seniority over Taylor and

Johnson had never been selected. Further, all who were selected were more qualified and/or had more seniority than Taylor and Johnson. In any event, the issue of Johnson's failure to be promoted and the police academy issue were submitted to the jury and they had the benefit of the alleged statement by Wells that he would never send a woman to the Police Academy.[2]

3. *Sexual Harassment*

At trial, Johnson testified that at times during her tenure with the department, Wells: (1) talked to her in his office with the door shut; (2) told her she would be promoted if she "did the right thing"; (3) told her she looked good in her uniform; and (4) touched her on her arm or shoulder when he spoke to her. She made no claim that Wells had ever asked her for a date or made any sexual advances towards her whatsoever, notwithstanding that he "talked to her in his office with the door shut for hours." Johnson filed a claim with EEOC in which she alleged discrimination based upon sex, however, she did not allege sexual harassment. Her claim of sexual harassment in her complaint was dismissed by a Rule 50(a) judgment as a matter of law by the district court. The *en banc* court affirmed, holding that she had not exhausted her administrative remedies.

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[2] The jury also had the benefit of Taylor's direct testimony and cross-examination that Wells told her he was going to make sure she would go into the Police Academy and that male officers with more seniority had not gone to the Police Academy. See appendix.

4. *Johnson's Resignation*

In September 1994, fourteen months after she was hired as a VUU patrol officer, Johnson sent a letter of resignation to Wells. The letter was forwarded by Wells to the department supervisor for action. The department supervisor, upon receipt of Johnson's letter of resignation, met with Johnson and attempted, unsuccessfully, to change Johnson's mind and get her to reconsider. Johnson did not complain of sexual harassment or that she felt she had been discriminated against in any manner based on her sex. She stated that she had an opportunity for another position which was too good to turn down, and volunteered that she was very appreciative of all she had learned at VUU. She was advised by the department supervisor to adjust her termination date so that she could collect an extra four days pay.

In her letter of resignation addressed to Wells, Johnson stated, "While I have enjoyed very much working under this direction, I find now that I have an opportunity to further develop my career in areas that are more in line with my long term goals. I thank you for the police training I have received."

C. VUU Promotion Policy

The VUU officials testified that all promotions within the VUU Police Department were made on the basis of merit with consideration being given to all qualified applicants and that the policy was followed uniformly. Yancey testified that each patrol officer was given a document which listed the criteria for promotion and that each

officer knew what was required to get promoted and that the promotion procedures were followed uniformly without regard to sex. The President of VUU (who also supervised the department for a brief period in 1993) testified that it is the policy of VUU to maintain a standardized procedure pertaining to promotions and that VUU is an equal opportunity employer without regard to age, sex, race, religion, creed or national origin and that the policy is applied to the department.

D. The Selection Process

The evidence was uncontraverted that candidates were selected for promotion from persons who pass the examination by a panel of persons from Virginia Commonwealth University's Police Department, the Richmond Bureau of police, faculty at VUU, and peers at VUU within the police department. The panel makes recommendations as to who will be promoted. Taylor and Johnson offered no evidence of any failure by VUU to follow the stated promotion and selection policies. As stated above all factual issues relating to Johnson were submitted to a jury and resolved in favor of VUU.

REASONS FOR DENYING THE WRIT

A. Taylor

1. ***Petitioners misrepresent the fundamental question in this case, which is whether the Fourth Circuit erred in upholding entry of judgment as a matter of law under Rule 50(a) of the Federal Rules of Civil Procedure[3] where Taylor failed to establish a prima facie case on any of her claims.***

The facts of this case do not warrant a granting of a writ of certiorari to the petitioners. In the case of Taylor, she clearly did not make out a *prima facie* case on her claims.

Taylor claims she is entitled to the mixed motive burden shifting analysis under *Price Waterhouse*. In order

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[3] Rule 50(a)(1) of the Federal Rules of Civil Procedure states, "If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the court may determine the issue against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue."

Taylor argues that the jury was denied an opportunity to hear Wells' statement, made in reference to Johnson, that he would not send a woman to the Police Academy. However, this statement was presented to the jury in Johnson's case and the jury found in favor in VUU. It is incredulous to argue that the same jury would have arrived at a different result for Taylor.

to qualify for this mixed motive standard, she was required to establish a *prima facie* case on each issue.

She was, at the minimum, required to establish by a preponderance of the evidence that she was qualified for the promotion she sought. The evidence at trial was undisputed that to qualify for promotion to the rank of Corporal at VUU, the candidate must possess a rating of satisfactory or above in all categories on the most recent performance evaluation. Taylor was not qualified for promotion to Corporal because she had received a rating of less than satisfactory. Taylor signed the evaluation form without written comments, although space was provided on the form for employee comments. Furthermore, Taylor's immediate supervisor, testified at trial that she did not properly carry out assignments, and that he would not have recommended her for a promotion. In addition, Department Supervisor Miller testified that Taylor exhibited a "lackadaisical attitude" and he would not have recommended her for promotion. This evidence was uncontraverted.

Taylor claims she is entitled to the mixed-motive analysis on her promotion claim. However, she offered no evidence at trial to trigger the mixed-motive standard. She bore the burden of the *McDonnell Douglas* burden-shifting proof scheme to make out a *prima facie* case of disparate treatment, which she failed to establish.

Likewise, with respect to her police academy claim, she was required to establish *prima facie* that at the minimum, she was as qualified as the male officers who were selected to attend the Police Academy. The evidence was overwhelming and uncontroverted that Taylor was not as

qualified as the male officers. In fact, Taylor did not rebut the uncontraverted evidence which established beyond peradventure that the male officers were more qualified than Taylor. Further, Taylor conceded on cross-examination that there were male officers with more seniority than her, who were not selected to attend the Police Academy, and she admitted that Wells told her he would send her to the Police Academy.

In short, the issues which Taylor raises in her petition regarding not being promoted and not being sent to the Police Academy are factual issues which were resolved in the district court based on not having made out a *prima facie* case.

Taylor further argues that the district court erred in granting VUU's Rule 50(a) motion for judgment as a matter of law with respect to her discriminatory discharge claim. However, as with her other claims, the evidence was overwhelming and properly resolved against her. Taylor premises her discriminatory discharge claim on her assertion that male officers in the Department also fraternized with VUU students but escaped discipline. However, Taylor failed to produce any evidence that any male officer had engaged in the type of serious misconduct she was found to have engaged in in violation of VUU policy. The only evidence she introduced was testimony by her to be "rumors" that unidentified VUU male officers had engaged in sexual relationships with unidentified female students and a former officer's testimony that unidentified male officers were not disciplined for having "contact" with students. This vague, non-probative testimony could not and did not establish a *prima facie* case regarding Taylor's discriminatory discharge claim.

2. ***The Fourth Circuit has not decided an important federal question in a way which conflicts with relevant decisions of this Court and other circuits.***

Petitioners, citing *Price Waterhouse,* assert the Fourth Circuit misapplied the burden shifting standards established in *McDonnell Douglas.* In making their claims, petitioners fail to cite *McDonnell Douglas.* However, the opinion rendered by the *en banc* court in this case is not inconsistent with *Price Waterhouse, McDonnell Douglas* and the relevant decisions of this Court and other circuits. Taylor argues that she is entitled to a more generous standard of liability based upon evidence that Wells stated he would never send a woman to the Police Academy when asked in reference to Johnson. However, Taylor was told she would be sent to the Academy and she presented no evidence which bears directly on this contested employment decision. She was not entitled to the more advantageous standard because she failed to make a *prima facie* case on any of her claims. *See Griffiths v. Cigna Corp.* 988 F.2d 457, 470 (3rd Cir. 1993).

Taylor cites *McKennon v. Nashville Banner Pub. Co.,* 513 U.S. 352 (1995); *Mount Healthy v. Doyle,* 429 U.S. 274 (1977) (this was a first amendment case); *Ostrowski v. Atlantic Mutual Ins. Co.,* 968 F.2d 171 (2nd Cir. 1992), *Griffiths v. Cigna Corp.,* 988 F.2d 457, 470 (3rd Cir. 1993) *Hennessy v. Penril,* 69 F.3d 1344 (7th Cir. 1995); *Radabaugh v. Zip Feed Mills, Inc.,* 997 F.2d 444 (8th Cir. 1993); *Godwin v. Hunt Wesson,* 150 F.3d 1217 (9th Cir. 1998); *Thomas v. National Football League Players Assoc.,* 131 F.3d 198 (D.C. Cir. 1997). These cases are not apposite. She ignores significant differences between her case and those cited.

First, in all of the civil rights cases cited, it was found that the plaintiff established their *prima facie* claim. Taylor failed to make a *prima facie* case in any of her claims as we have shown. *See Miles v. M.N.C. Corp.*, 750 F.2d 867 (11th Cir. 1985). Even assuming *arguendo* that Taylor had made a *prima facie* case, she would not necessarily be entitled to a more relaxed standard of proof. *See Ostrowski* at 181, *Schleiniger v. Des Moines Water Works*, 925 F.2d 1100 (8th Cir. 1991). Nor would it have been sufficient to have overturned the Rule 50(a) judgment as a matter of law granted to VUU. *See Madel v. F.C.I. Marketing, Inc.*, 116 F.3d 1247 (8th Cir. 1997).

Taylor argues the *en banc* court erroneously narrowed the Civil Rights Act of 1991 by requiring that the conduct or statement to "bear directly on the contested employment decision". However, the court did not in any way limit the Civil Rights Act of 1991. Taylor argues that she is entitled to the mixed motive standard. However, without establishing a *prima facie* case, at best, she was only entitled to the burden shifting proof scheme outlined in *McDonnell Douglas*. *See Griffiths* at 470.

B. Johnson

1. *Petitioners misrepresent the Fourth Circuit's finding that evidence excluded by the district court was properly excluded or, at most, was harmless error.*

Johnson argues that it was improper for the court to exclude testimony of Wells' comment about "good pussy". She cites cases where sexist statements were initially excluded at the district court level where the

appellate court reversed and remanded for inclusion of such statements. There are, however, significant distinctions between those cases and Johnson's. Here, there already existed sufficient evidence for the fact-finder to determine the animus of the alleged decision maker.[4] In Johnson's case, she presented evidence that Wells stated in reference to her, he would never send a woman to the Police Academy. Clearly, this statement by Wells is a much more direct statement as it relates to gender discrimination than a statement about whether a woman has "good pussy". The alleged statement concerning never sending a woman to the Police Academy was presented to the jury and the jury having considered the statement, together with the evidence as a whole, found that Johnson had failed to meet her burden of proof. Johnson seeks the introduction of the lewd statement in an effort to inflame the emotions of a jury, when the statement is of an isolated nature and adds nothing in probative value as to the discriminatory animus related to employment. *See LaPointe v. United Autoworkers Local 600*, 8 F.3d 376 (6th Cir. 1993).

In the case of Johnson, all her claims, other than her sexual harassment claim, went to the jury. She claims the district court's failure to admit evidence that Wells once stated to a patrolman that he bet a certain woman "ha[d] good pussy", and that he had called another woman at home and told her he had looked down her blouse while standing behind her, was reversible error. Johnson did not properly pursue a sexual harassment claim and did

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[4] See *footnote 1 above.*

not mention any alleged sexual harassment incidents in her EEOC claim.[5]

Johnson sought to argue that she was denied a promotion to corporal or lieutenant because of her gender. She offered the same evidence as Taylor. She offered no evidence that she was the best qualified candidate and VUU established by uncontraverted evidence that the person promoted was better qualified and had scored higher on the requisite examination. This evidence was submitted to the jury.

Her evidence on the police academy issue was the same as Taylor's, and the jury had before it the alleged statement by Wells that he would never send a woman to the police academy. The jury considered all this evidence and held that Johnson had not carried the burden of persuasion.

Johnson further claims that she was constructively discharged because of her gender. Here Johnson had to show VUU deliberately made her working conditions intolerable in an effort to make her quit. VUU offered evidence that Johnson departed from VUU on very good terms. In her resignation letter, Johnson stated how much

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[5] This case was not a sexual harassment case. Johnson did not properly claim sexual harassment in her EEOC complaint. At trial, she was permitted to testify, nevertheless regarding Wells' treatment towards her in an attempt to prove that her working conditions were intolerable. She said that Wells touched her arm, called her at home on numerous occasions, talked to her with the door shut, told her she looks good in her uniform and would be promoted if she "did the right thing." There was no indication that he ever made sexual advances or acted improperly in any manner.

she had enjoyed working under Wells' direction. In addition, VUU introduced evidence that VUU tried to convince Johnson not to resign and persuaded her to stay for four more days to earn extra pay. All of this evidence was before the jury which found favorably for VUU.

2. ***Johnson had failed to exhaust her administrative remedies on her sexual harassment claim.***

In addition, Johnson claims the district court committed reversal error in dismissing her sexual harassment claim on summary judgment. The district court dismissed this claim on the basis that Johnson did not exhaust her administrative remedies. In Johnson's EEOC complaint, she failed to allege sexual harassment. She claimed on appeal that the court should have inferred sexual harassment from her statements in her EEOC complaint that Wells touched her arm, called her at home on a number of occasions, talked to her in his office for hours at a time, told her he hired her because he liked her. The EEOC complaint does not give even an inference of sexual harassment. The Fourth Circuit noted it is common in employer-employee relationships for: people to touch someone's arm to emphasize a point; employers to call employees at home; employers to call employees into their office to talk for extended periods of time; and employers to hire people they like. There was no intimation in her EEOC claim that Johnson was asserting a sexual harassment claim. Accordingly, the claim was properly dismissed on the grounds that she failed to exhaust her administrative remedies.

C. There are no compelling federal questions raised in this case.

Nothing in this case calls for an exercise of this Court's supervisory power. All of the issues raised are fact bound contentions which were resolved in the district court.

CONCLUSION

Nothing that petitioners have accused the Fourth Circuit of doing in this case, is in conflict with relevant decisions of this Court and other circuits, has raised an important federal question that has not been settled by this Court, nor has far departed from the accepted and usual course of judicial proceedings. Petitioners have not introduced one compelling reason for this Court to take this case. Therefore it is unnecessary for this Court to assert its discretionary jurisdiction. This Court should deny this petition for writ of certiorari.

Dated January 28, 2000

Respectfully submitted

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

LYNNE S. TAYLOR and
KEISHA JOHNSON,

Plaintiffs;

v.

CIVIL ACTION
3:96CV517

VIRGINIA UNION UNIVERSITY,

Defendant.

VOLUME I

April 17, 1997
Richmond, Virginia
9:48 a.m.

* * *

[p. 100] (Luncheon recess taken from 1:07 p.m. to 2:12 p.m.)

THE COURT: Let's bring in the jury, please.

(The jury entered the courtroom.)

All right, plaintiff, call your next witness.

MR. ROBERTS: Keisha Taylor. Lynne Taylor, excuse me.

LYNN TAYLOR,

a plaintiff herein, called as a witness by and on her own behalf, having been first duly sworn by the Clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ROBERTS:

Q Ms. Taylor, tell the jury who you are, please.

A Lynne Taylor.

Q And where are you from?

A Richmond, Virginia.

Q What is you present employment?

A Office Max on Broad Street.

Q When did you start at Office Max?

A November, 1995.

Q Was there a point in time at which you were employed at Virginia Union University?

A Yes.

* * *

[p. 109] process?

A No, I did not.

Q Did you request – tell me about the Police Academy training.

A Police Academy training is a very important part of anyone whose career aspirations are in law enforcement. It is 12 weeks of training that gives you lessons, they cover basic law, the Miranda decision, and everything pertaining to what you need to do to perform your job in a better capacity. They also go over what incidents such as probable cause, when to arrest and when not to

arrest, which is very important for anyone that's interested in a law enforcement career. It makes you more – I can't think of the word. It makes you more eligible. It makes you more attractive to potential employers.

Q It is important for performing the duties at Virginia Union?

A Yes, it is.

Q And did Chief Wells ever talk to you about the Academy?

A Yes, he did.

Q What did he say to you?

A First, he said that he was going to make sure that I got in. Then when I discussed it with him, he [p. 110] said that I acted like I didn't have any initiative. And when I asked him to be specific, he said, you know what I mean. You just don't have any initiative. He never really gave me a clear answer.

BY MR. DUNNAVILLE:

Q Now, Ms. Taylor, you stated that Chief Wells said that he was going to send you to the Police Academy; is that correct?

A Yes.

Q And of course, you know that there were only a few number of slots that could be available to Virginia Union each year; is that correct?

A Yes.

Q How many slots were allowed to Virginia Union?

A Two.

[p. 117] Q Two slots per year?

A It varied.

Q Okay. And were there many men who had been waiting a lot longer than you who had not been sent to the Police Academy?

A There were some, I suppose.

Q Yes. And for example, there was Officer Anderson, I believe; did you know him?

A Yes.

Q Did he ever go to the Police Academy?

A No.

Q What about Mr. Pittman; do you know if he went to the Police Academy?

A Not to my knowledge.

Q Weren't there a number of police officers who had never gone to the Police Academy?

A Some.

Q And had many of them been working for Virginia Union much longer than you?

A Some of them, yes.

Q And Chief Wells, you said, told you that he would send you to the Police Academy.

A Yes.

Q So why are you complaining when there were many men who were standing in line waiting to go to the [p. 118] Academy and you knew there were only a few slots open per year, and men had seniority over you and still hadn't gone?

MR. ROBERTS: Objection to the question. It assumes facts that there were men standing in line.

THE COURT: Overruled. She indicated there were men who were senior and hadn't gone. It is a fair question.

* * *